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17 JULY 2007

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In re Application of :
TSATSANIS, Michail et al. : DECISION ON SECOND
Application No.: 10/517,094 :
PCT No.: PCT/US03/18129 : RENEWED PETITION
Int. Filing Date: 06 June 2003 :
Priority Date: 07 June 2002 : UNDER 37 CFR 1.47(a)
Attorney's Docket No.: VOY-024US :
For: Method And System For Providing a Time Equalizer :
For Multiline Transmission In Communication Systems :

This is a decision on applicant's "Second Renewed Petition Under 37 C.F.R. 1.47(a)," filed in the United States Patent and Trademark Office on 13 April 2007 on behalf of the non-signing co-inventor Michail Tsatsanis. The petition under 37 CFR 1.47(a) is DISMISSED.

BACKGROUND

On 06 June 2003, applicants filed international application PCT/US03/18129, claiming a priority date of 07 June 2002. The thirty-month for paying the basic national fee in the United States expired at midnight on 07 December 2004.

On 06 December 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee.

On 27 March 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 30 May 2006, applicants filed a response to the Notification of Missing Requirements including, a declaration executed by two of the three inventors, a petition under 37 CFR 1.47(a) requesting acceptance of the declaration on behalf of the non-signing inventor Michail Tsatsanis and the surcharge for late filing of the declaration.

On 25 August 2006, the Office mailed "Decision on Petition under 37 CFR 1.47(a)" dismissing applicants' petition without prejudice. First, the Decision indicated that the submitted declaration did not indicate the citizenship of the non-signing inventor, hence concluding that it does not comply with 37 CFR 1.497(a). Second, because a response was not received to the mailing of the complete application, without additional evidence that the address of the non-signing inventor is the current address, the Decision did not support the conclusion that the inventor refused to execute the declaration in the present application. The Decision requested additional evidence to confirm the inventor's constructive refusal to sign.

On 19 October 2006, applicants filed a "Renewed Petition Under 37 CFR 1.47(a)" requesting acceptance of the declaration on behalf of the non-signing inventor Michail Tsatsanis and a copy of a declaration executed by the non-signing inventor in October 2004, in a separate U.S. application, identifying the same address as that used by applicants in the instant application.

On 16 November 2006, the Office mailed "Decision on Renewed Petition under 37 CFR 1.47(a)" dismissing applicants' petition without prejudice. The Decision stated that because the declaration executed in a separate U.S. application, was executed in October 2004, well over one year prior to the mailing in the instant application, the evidence was not acceptable to prove that the address listed thereon is the current address of the non-signing inventor. The Decision concluded that applicants have failed to provide evidence that a diligent effort to "identify a current address for the inventor and contact him at such address has been made."

On 13 April 2007, applicants filed the instant "Second Renewed Petition Under 37 CFR 1.47(a)," requesting acceptance of the declaration on behalf of the non-signing inventor Michail Tsatsanis including, a three-month extension of time and, declarations by Mr. Joseph Jordan and Mr. Benjamin Stevens providing additional evidence to show that a diligent effort to "identify a current address for the inventor and contact him at such address has been made."

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) a statement of the last known address of the missing inventor, (3) an oath or declaration by each applicant on his or her own behalf and on behalf of the non-signing joint inventor and, (4) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort.

As to item (1) applicants have submitted the correct petition fee of \$200.00 under 37 CFR 1.17(g). Hence, item (1) is satisfied.

As to item (2), applicants have submitted a statement of the last known address of the non-signing inventor: 217 Baltimore Avenue, Huntington Beach, California 92648. Hence, item (2) is satisfied.

With regard to item (3), applicants have filed a declaration executed by the other cooperating inventors and containing an unsigned signature block for the non-signing inventor. However, the submitted declaration does not indicate the citizenship of the non-signing inventor, thereby does not comply with 37 CFR 1.497(a). Therefore, item (3) has not been satisfied.

With regard to item (4), the declaration by Mr. Joseph Jordan indicates that on April 10, 2006 a complete copy of the application was mailed to non-signing inventor Michail Tsatsanis at his last known address and was returned as "unclaimed". On May 3, 2006 and January 5, 2007, further correspondence was mailed to non-signing inventor Michail Tsatsanis at his last known address that was not returned. The mailing of January 5, 2007 was mailed with "Address Service Requested." According to the United States Postal Service, if non-signing inventor Michail Tsatsanis had moved and had filed an address change notice, the mailings would have been returned.

The declaration by Mr. Joseph Jordan further indicates that a search of the land records at the County Recorder of Orange County, California showed non-signing inventor Michail Tsatsanis as the current Grantee for the property located at his last known address. Further, a Lexis/Nexis search showed that the last known address of non-signing inventor Michail Tsatsanis is his current address.

Applicants further executed an Internet search (White Pages) and found a phone number of (703) 969-9319 for non-signing inventor Michail Tsatsanis and a separate address: 4291 Kona Drive #C, Huntington Beach, California. The Lexis/Nexis search linked this phone number to his last known address of 217 Baltimore Avenue, Huntington Beach, California 92648. However, in order to determine which is the current address, applicants then asked Mr. Benjamin Stevens to drive to the two addresses and confirm which one is that of non-signing inventor Michail Tsatsanis. The declaration of Mr. Benjamin Stevens indicates that he had with him a photo of non-signing inventor Michail Tsatsanis. Upon reaching the last known address of non-signing inventor Michail Tsatsanis, Mr. Benjamin Stevens states that, "[t]hrough a large front window I saw the man who is shown in the picture."

Therefore, the evidence as a whole clearly shows that the last known address of non-signing inventor Michail Tsatsanis is the current address. Further, the evidence clearly shows a diligent effort has been made to "identify a current address for the inventor and contact him at such address." It is submitted that the evidence provided is sufficient to show constructive refusal of Michail Tsatsanis to sign the declaration in the instant application. Hence, item (4) is satisfied.

CONCLUSION

Applicants' petition to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Michail Tsatsanis, is DISMISSED without prejudice.

A new oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Third Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.



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